

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ERIC LIVELY,

Petitioner,

v.

TOM BIRKETT,

Respondent.

CASE NO. 2:10-CV-12110
HONORABLE LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

OPINION AND ORDER DENYING THE MOTION FOR RECONSIDERATION

On June 25, 2013, the Court denied petitioner a writ of habeas corpus. The Court also denied petitioner a certificate of appealability and leave to appeal *in forma pauperis*. *See Lively v. Birkett*, No. 2:10-CV-12110, 2013 WL 3224419 (E.D. Mich. June 25, 2013). Petitioner has now filed a motion for reconsideration. For the reasons stated below, the motion for reconsideration is DENIED.

U.S. Dist.Ct. Rules, E.D. Mich. 7.1 (h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *See Sheet Metal Employers Industry Promotion Fund v. Absolut Balancing Co. Inc.*, 884 F. Supp. 2d 617, 626 (E.D. Mich. 2012)(citing E.D. Mich. L.R. 7.1(h)(3)). A party moving for reconsideration shall not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction of the alleged defect. *Id.* “A ‘palpable defect’ is a defect that is obvious, clear, unmistakable, manifest, or plain.” *Id.*

In the present case, petitioner has made a number of lengthy arguments in support of his

motion for reconsideration. All of these arguments were considered by this Court, however, either expressly, or by reasonable implication, when the Court denied the petition for writ of habeas corpus and denied petitioner a certificate of appealability and leave to appeal *in forma pauperis*. Petitioner's motion for reconsideration will therefore be denied, because petitioner is merely presenting issues which were already ruled upon by this Court, either expressly or by reasonable implication, when the Court denied petitioner's habeas application and denied him a certificate of appealability and leave to appeal *in forma pauperis*. See *Hence v. Smith*, 49 F. Supp. 2d 549, 553 (E.D. Mich. 1999).

Accordingly, the motion for reconsideration [dkt. # 21] is **DENIED**.

Dated: August 6, 2013

S/LAWRENCE P. ZATKOFF
HON. LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE